IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1100 OF 2005

Mr.Manohar S.Pawar ..Petitioner

Vs.

Industrial Meters Ltd.
and Ors. ..Respondents

....

Mr.S.A.Sawant & H.V.Kode for Petitioner

....

CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 19,2005

P.C.:

1. Heard Mr.Sawant, the learned counsel for the Petitioner who had approached the Industrial Court at Mumbai and filed Complaint (ULP) No.443 of 1999 sometimes in April, 1999 under Item Nos. 9 and 10 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971. He had alleged that though Award in Reference (IDA) No. 58 of 1994 was passed in his favour directing reinstatement, the said Award was not implemented and this, is an act of unfair labour practice under Item No.9 of Schedule IV of the Act. He had further alleged that he was not allowed to report for duty and was not paid the amount of backwages as directed in the Award. Unfair labour practice under Item No.10 of the Schedule IV of the Act was alleged on

this ground.

2. The Respondent-company appeared before the Industrial Court, filed its reply and opposed the complaint. It was pointed out that the direction of reinstatement was implemented and amount of backwages coming to Rs.18,008/- was already paid to him. After working for some days, the Petitioner stopped reporting for duty and subsequently sent his resignation. The allegation of the Petitioner that he was orally terminated from service on 27.1.1999 was denied.

3. Evidence was adduced by both the parties before the Industrial Court. In his examination in chief before the Industrial Court, the Petitioner had admitted as under:

> . "As per the Award dated 28.8.1998 and immediately on the same day, I was allowed to report and resume on duties and after that I was upto 27.1.1999 in the respondent-company and after the said day though, I reported for duty, I was not allowed to resume duty by the respondents".

4. In the complaint filed by the Petitioner he had clearly admitted that he was reinstated and he worked from 16.11.1998 to 27.1.1999.

5. He had further stated in the said complaint that the amount of backwages came to Rs.1,37,643/- and he had received the said amount partly. The employer had brought before the Court the proof for payment released in favour of the Petitioner by way of cheques. This Court had held from time to time that the act of emoployer not to allow the employee to report for duty is an oral termination of service and thus, falling within the ambit of Item No.1 of Schedule IV of the Act. The complainant's case as alleged in the complaint had attracted Item No.1 of Schedule IV of the Act and findings recorded by the Court that there was no case made out for unfair labour practice within the meaning of Item Nos.9 and 10 of Schedule IV of the Act, do not call for any interference, and therefore, challenge to the said view taken by the Industrial Court must fail.

6. The petition is hereby rejected summarily.

[B.H.MARLAPALLE,J.]